IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12728 of 2003

Between:

1 M/s. Sri Stayanarayana Swami Rice Mill rep by its partner Sri P. Bixapati, V & M, Nalgonda Dist.
2 M/s. Laxmi Industries rep by its partner Sri P. Ramesh

Village and mandal Chityal, Nalgonda district.
3 P. Bixapati S/o. Late Pullaiah, aged 65 years, Occ: Business, R/o H.No.6-90, Main Road, Chityal, Nalgonda district.
4 P. Satyanarayana S/o. P Bixapathi, H.No.6-90, Main Road, Chityal, Nalgonda Dist.
5 P. Srinivasulu,S/o.P.Bixapati, R/o. H.No.6-90, Main Road, Chityal, Nalgonda Dist.

6 P. Ramesh,S/o. Bixapathi
R/o. H.No.6-90, Main Road, Chityal, Nalgonda Dist.

..... PETITIONER(S)

AND

1 M/s. State Bank of Hyderabad rep by its Branch Manager
Chityal Branch, Chityal, Nalgonda Dist.
2 M/s State Bank of Hyderabad rep by its Chairman
Corporate Office, Gonfoundry Hyderabad.
3 The Chief Manager,
State Bank of Hyderabad(Advances) Region-III Zonal Office, Hyderabad.

4 The Union of India rep by its Secretary, Ministry of Finance
(Banking Division), Jeevandeep Building, Sansad Marg, New Delhi.

5. P.Laxmaiah, s/o Pullaiah, 70 years, Occ Business, r/o Chityal village and mandal, Nalgonda district.

6. P.Yadaiah, s/o Laxmaiah, 45 yrs, Occ: Business, r/o Chityal village and mandal, Nalgonda district.

(Respondents 5 and 6 are impleaded as per Court order dated 3-12-2003 in W.P.M.P.No.28876 of 2003).

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of mandamus declaring the action of the respondents in issuing the notice dt.29-5-2003 to the petitioners under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest(Second) ordinance, 2002 is illegal, arbitrary, without any authority of law contrary to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security interest(Second) Ordinance 2002, against the principles of natural justice and violative of article 21 of the Constitution of India.

Counsel for the Petitioners: MR.K.JAWAHAR

Counsel for the Respondent No.1: MR K.V.SIMHADRI

Counsel for respondent No.4: Mr A.Rajashekar Reddy, SC for CG

Counsel for respondent Nos.5 & 6: Mr K.Venumadhav

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 (MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 9, 2004.

nmr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Branch Manager, State Bank of Hyderabad,

Chityal Branch, Chityal, Nalgonda district.

2. Chairman, M/s State Bank of Hyderabad,

Corporate Office, Gunfoundry, Hyderabad.

3. The Chief Manager, State Bank of Hyderabad (Advances), Region-III, Zonal Office, Hyderabad.

4. Secretary, Union of India, Ministry of Finance,

(Banking Division), Jeevan Deep Building,
Sansad Marg, New Delhi.

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